

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

L. G. & PHYLLIS MURDOCK,)	
)	DOCKET NO.: PT-1997-31
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on December 9, 1998, in the City of Great Falls, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The taxpayers, L.G. and Phyllis Murdock, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Elaine Jaraczski, residential appraiser, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as

follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The property that is the subject of this appeal is described as follows:

Lot 17, Block, 7 Bel View Palisades
Subdivision, County of Cascade, State of
Montana (DOR ID number 416800).

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$24,356 for the land and \$94,144 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board on October 22, 1997 requesting a reduction in value to \$15,000 for the land and \$55,000 for the improvements, stating:

House built in 1976. Purchased in 1978 for \$70,000. Appraised by James Company in 1981 for \$75,000. Review by Rich Dempsey of County Appraisal office for \$92,100. Found no improvements. Reviewed by Elaine J. of appraisers office on 10/8/97 still no improvements. Appraised price reduced from \$126,700 to \$118,500.

5. In its November 25, 1997 decision, the county board denied the appeal, stating:

After hearing testimony and reviewing exhibits, the Board feels the values set by the Dept. of Revenue of

\$24,356.00 for land and \$94,144.00 for buildings accurately reflects the market value of the property. This appeal is disapproved.

6. The taxpayer then appealed that decision to this Board on December 8, 1997, stating:

We didn't feel we received an impartial hearing.

7. The taxpayer revised the requested values during his direct testimony to \$10,000 for the land and \$82,000 for the improvements.

TAXPAYER'S CONTENTIONS

Mr. Murdock expressed concerns as to the appraisal expertise of Ms. Jaraczski. The DOR's original appraisal was reduced from \$126,700 to \$118,500 after a ten minute review of the residence.

Taxpayer's exhibit #2 is a copy of assessment notices for tax years 1990 and 1993. This exhibit also illustrates the various value increases subsequent to DOR reappraisal. The value changes indicate the following:

Appraisal cycles every 3 years	
1990 - 1990-1993	\$ 83,439
1993 - 1993-1997	\$ 92,100
1997 - 1997-2000	\$126,700-\$118,500

Mr. Murdock testified he purchased the property in 1978 for \$70,000.

Mr. Murdock indicated he contacted the Great Falls Board of Realtors for an indication of how property values

have changed over the past years. Summarized, taxpayer's exhibit #3 illustrates the following:

FIVE YEAR COMPARISONS

YEAR	NUMBER <u>LISTED</u>	NUMBER <u>CLOSED</u>	GROSS <u>SALES</u>	Avg# <u>DP'S*</u>	Avg# <u>LSTG*</u>	AVG <u>PRICE</u>	%LSTD <u>SOLD</u>
1992	1,848	1,287	\$80,845,590	124	699	\$67,491	69.6%
1993	1,793	1,343	\$90,417,247	124	553	\$73,862	74.9%
1994	1,819	1,258	\$88,966,447	115	519	\$76,154	69.2%
1995	1,726	1,153	\$85,947,482	105	585	\$81,791	67.0%
1996	1,725	1,189	\$94,926,210	104	575	\$87,290	68.9%

- Each Month

Taxpayer's exhibit #5 is the "1996 Land Value Modeling", the Computer Assisted Land Pricing (CALP) model used by the DOR to determine land values. Mr. Murdock disputes the DOR's method of establishing a base size, base rate and an adjusted rate when determining land values.

Mr. Murdock presented property record cards on three properties. The significance of these exhibits is to compare the actual purchase price with the DOR's value indication. These sales also appear on the DOR's CALP model.

In summary, the exhibits illustrate the following:

<u>Exhibit #</u>	<u>Lot Size- SF</u>	<u>Purchase Price</u>	<u>Sale Date</u>	<u>DOR Value</u>
#6	14,202 SF	\$22,500	6/94	\$26,181
#7	11,894 SF	\$22,000	4/93	\$25,373
#8	11,979 SF	\$25,000	6/93	\$25,403

Mr. Murdock indicated the third sale (ex. #8) is the only property which is valued consistent with the cost or purchase price.

Mr. Murdock testified to a vacant land sale in the

immediate area of the subject property. This lot consists of 10,411 SF and sold for \$15,000 or \$1.44 SF.(ex. #9, pg. 2)

Mr. Murdock testified to properties listed for sale in the area for \$.98 SF (exhibit #10) and \$1.27 SF. (ex. #11)

Taxpayer's exhibit #12 is a market analysis for the subject property prepared by a Coldwell Banker real estate agent. This exhibit illustrates the following:

Comparable Properties										
Subject Property										
Address	SqFt	Lot Size	Style	Bed	Bathrm	Parking	List Price	Sale Price	\$/SqFt	DOM
2721 Fern Dr	1,560	75x120	Raised Ranch	4+	.2	2 Car				
Current Listings										
Address	SqFt	Lot Size	Style	Bed	Bathrm	Parking	List Price	Sale Price	\$/SqFt	DOM
1241 Park Garden	1,228	80x120	Single Family/Split	5+	3+	2	\$120,900		98.45	
2702 Greenbriar	1,288	Irreg	Single Family/Ranc	4	3+	2	\$129,200		100.31	
3005 Dawn Ct	1,281	70x123x2	Single Family/Ranc	3	2	2	\$133,900		104.53	
2709 Bitterroot	1,588	Triang	Single Family/Ranc	2	2	2	\$139,900		88.10	
2746 Fern Drive	2,078	Irreg	Single Family/Split	4	3+	2	\$147,000		70.74	
Sold Listings										
Address	SqFt	Lot Size	Style	Bed	Bathrm	Parking	List Price	Sale Price	\$/SqFt	DOM
2719 Clover Drive	1,264	80x113	Single Family/Ranc	4	1	2	\$109,900	\$109,900	86.95	31
2705 Clover Drive	1,316	Irreg	Single Family/Ranc	3	2	2	\$119,900	\$117,800	89.51	37
2738 Dawn Drive	1,440	80x116	Single Family/Split	4	3+	2	\$129,900	\$120,000	83.33	56
2753 Acacia	1,432	90x115	Single Family/Ranc	3	3+	2	\$159,000	\$152,000	106.15	105
Pending Listings										
Address	SqFt	Lot Size	Style	Bed	Bathrm	Parking	List Price	Sale Price	\$/SqFt	DOM
2782 Fern	1,200	94x113	Single Family/Cont	3	2	2	\$139,900	\$129,900	116.58	
2759 Fern	1,232	80x126	Single Family/Ranc	3	3+	2	\$141,000	\$141,000	114.45	
92 Treasure	1,298		Single Family/1 ½	3	2	2	\$154,900	\$154,900	119.34	

emphasis added

The market analysis suggests the subject property would sell in the range of \$107,000 to \$112,000. (ex. 12, pg 2)

Mr. Murdock testified the residence next door was listed for \$129,000 and sold for \$119,000 in June of 1998.

DOR'S CONTENTIONS

Ms. Jaraczski testified the taxpayer filed an "AB-26 Property Adjustment Form" with the DOR and she conducted an

on-site review of the property. The effective age of the property was adjusted from 1985 to 1980 which modified the overall value.

DOR exhibit A, page 1 is the property record card for the subject property. Summarized, this exhibit illustrates the following:

LAND DATA

<u>Square Feet</u>	<u>Unit Price</u>	<u>Land Value</u>
8,989	\$2.71	\$24,356

BUILDING DATA

Year built - 1976	Effective Age - 1980
Physical condition - average (4)	
Grade - average (5)	
Condition, Desirability & Utility (CDU)	good
Basement - 1,560 SF	Finished area - 1,170
1 st Floor - 1,560 SF	
Bedrooms - 3	Bathrooms - 2
Asphalt paving - 25' x 25'; grade - average;	condition - poor
Replacement Cost New	\$117,700
Percent good	x 86%
Economic Condition Factor (ECF)	x 94%
Replacement Cost New Less Depreciation	\$ 95,150
Plus: Paving	\$ 150
Total improvement value - cost approach	\$ 95,300
Plus: Land value	\$ 24,356
Total value - cost approach	\$119,656

Exhibit A, page 2 is the "Montana Comparable Sales" sheet which illustrates the comparable properties used to establish the market value for the subject property. The value indication from this exhibit is \$118,500. Page 3 of this exhibit is a map illustrating the location of the comparable sales.

Ms. Jaraczski testified that based on the "Montana

Comparable Sales" sheet, the DOR had a high level of confidence in the sales comparison approach.

DOR exhibit B is the "Computer Assisted Land Pricing" (CALP) model for neighborhood 6G, the subject neighborhood. The model analyzed thirty-eight vacant land sales and the transaction dates range from May of 1992 to September of 1995.

BOARD'S DISCUSSION

The taxpayer expressed concern as to the DOR's method of establishing land value. It was testified by Ms. Jaraczski the calculation to arrive at the subject's land value is as follows:

Base Size	10,500 SF
Base Rate	x \$2.37 SF
Base Value	\$24,885

Base Size	10,500 SF
Subject Size	-8,989 SF
Size Difference	1,511 SF

Size Difference	1,511 SF
Adjustment Rate	\$.35 SF
Adjustment	\$529

Base Value	\$24,885
Adjustment	-\$ 529
Market Value	\$24,356

Market Value	/ Size	=	\$/SF
\$24,356	/ 8,989 SF	=	\$2.71 SF

In establishing land values there are various adjustment factors which need to be identified and appropriately applied if identifiable. (i.e. time of sale,

size, location, topography, etc.) The DOR's CALP model for the subject neighborhood established the base lot size at 10,500 square feet. The average size illustrated on the CALP model is 10,517 square feet. This model adjusts values for properties larger or smaller than the base size. Adjustments to the unit of comparison based on economies of scale are an appropriate adjustment, but there must be support from the sales used in the analysis or the CALP model.

The CALP model illustrates eleven transactions that occurred in 1995. The DOR's date of value for the current appraisal cycle is January 1, 1996. The closer the sales occurred to the date of value the smaller the amount of adjustment for time. The following are the sales that occurred in 1995 as illustrated on the CALP model. (ex. B):

<u>Sale Date</u>	<u>Sale Price</u>	<u>Lot Size - SF</u>	<u>\$/SF</u>
4/95	\$23,000	9,086 SF	\$2.53
4/95	\$24,000	9,991 SF	\$2.40
5/95	\$29,000	10,914 SF	\$2.66
5/95	\$28,000	12,801 SF	\$2.19
5/95	\$21,000	8,982 SF	\$2.34
5/95	\$26,974	10,620 SF	\$2.54
5/95	\$26,111	10,280 SF	\$2.54
5/95	\$27,200	8,800 SF	\$3.09
8/95	\$26,500	10,472 SF	\$2.53
9/95	\$26,000	13,103 SF	\$1.98
9/95	\$25,000	15,605 SF	\$1.60

As previously stated, the only adjustments made within the CALP model were for time and size. Based on the sales that occurred in 1995, it is not apparent to the Board that a size adjustment is warranted for this particular

smaller lot. It is the Board's opinion the value of the subject land be established at \$2.37 per square foot for a value indication of \$21,304.

Based on this Board's reduction in the land value, the overall value indication recognizing the DOR's improvement value is \$115,448. It is the Board's opinion this value is supported by the taxpayer's exhibit #12, where the three emphasized sales sold for \$109,900, \$117,800 and \$120,000.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**

2. **§15-8-111, MCA. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. **15-2-301, MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

4. The appeal of the taxpayer is hereby granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the Assessor of that county at the 1997 tax year value of \$21,304 for the land and \$94,144 for the improvements. The appeal of the taxpayer is therefore granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

Dated this 19th of February, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L) PATRICK E. MCKELVEY, Chairman

GREGORY A. THORNQUIST, Member